

LAW OFFICE OF
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J. WILLIAM YEATES

MARY U. AKENS
KEITH G. WAGNER

June 28, 2002

Arthur Baggett, Jr.,
Chairman and Hearing Officer
State Water Resources Control Board
1001 "I" Street, 22nd Floor
Sacramento, CA 95814

Re: IID/SDCWA Water Transfer Hearing: Request for additional time to incorporate new information from Water Transfer & HCP Final EIR/EIS into closing argument/legal brief.

Dear Mr. Baggett:

On behalf of our client, National Audubon~California, we would like to thank you for the extension to July 11, 2002, to file our closing brief in the above referenced hearing. Today we received a CDROM containing the Final EIR/EIS for the proposed water transfer project. We would like to be able to incorporate the information contained in the Final DEIR/DEIS comments in our brief. However, as explained in the attached letter, the CDROM is flawed and precludes reasonable access to the information it purportedly contains.

We respectfully request additional time to prepare and submit our closing brief in light of the recent release of the Final EIR/EIS so that we may obtain a printed copy of the Final EIR/EIS, or a revised CDROM, and have a meaningful opportunity to review and incorporate the Final EIR/EIS' information into our closing brief.

Thank you,

[original signed]

Keith G. Wagner
Attorney at Law

att: Letter to Elston Grubaugh and Bruce D. Ellis

cc: Per attached service list

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June 28, 2002

Via Facsimile & U.S. Mail

Elston Grubaugh
Manager of Resources, Management, and
Planning Dept.
Imperial Irrigation District
P.O. Box 937
Imperial, CA 92251

Bruce D. Ellis
Bureau of Reclamation
Phoenix Area Office
(PXA0-1500)
P.O. Box 81169
Phoenix, AZ 85069-1169

Re: Water Transfer & HCP Final EIR/EIS: CDROM Format fails to meet CEQA and
NEPA's fundamental readability requirements.

Dear Mr. Grubaugh and Mr. Ellis:

Today, we received by express delivery a CDROM purporting to be the IID Water Conservation and Transfer Project HCP and Final EIR/EIS. On behalf of our client, National Audubon~California, we request that the Final EIR/EIS be reformatted and retransmitted to us for the following reasons.

Though the CDROM's "read me" file instructs the user to open a "START_HERE.pdf," file, no such file exists. We did locate a file entitled "Start_~1.pdf," but all that file contains is two pictures of the cover of the document, telling the reader to review the "read me" file for further instructions. Eventually we did find the Table of Contents in a file entitled "Front_~1.pdf" and located inside the "IID" folder.

Upon reviewing the Table of Contents and following the "read me" file's instructions to move the cursor (a hand symbol) over the sections of the Table of Contents, we discovered that the hand symbol does in fact turn into a pointing finger symbol, indicating that a link is present. However, single-clicking any such link brings up an error message which reads "The specified file [Section_File_Name.pdf] does not exist."

Since we couldn't access the information through the Table of Contents, we then perused the individual files, trying to review the individual files on the CDROM. However, attempting to access the Final EIR/EIS sections manually leads the CDROM user through a maze of folders and files which appear in no particular order, have titles which in no way correlate to their contents, and which contents are often fragmented portions of unidentifiable documents.

NEPA Regulations (40 C.F.R. 1502.8 and 1502.10) state that “Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them,” and that “Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action.” CEQA Guidelines section 15140 states that “EIRs shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can *rapidly* understand the documents” (emphasis added).

The information in the CDROM, as presented, fundamentally fails to meet basic NEPA and CEQA readability standards because it is not reasonably accessible to the average reader. On behalf of our client, we cannot accept this CDROM as service of the Imperial Irrigation District Water Conservation and Transfer Project Habitat Conservation Plan and Final EIR/EIS.

At your earliest convenience, please provide our office with a printed version of the Final EIR/EIS or an updated CDROM containing proper links and instructions so that we may reasonably access the information in a coherent fashion.

If there are any questions, please call.

Thank you,

[original signed]

Keith Wagner
Attorney at Law

cc: Mark Hattam, Allen Matkins Leck Gamble & Mallory, LLP

CERTIFICATE OF SERVICE

I am employed in the County of Sacramento, State of California. I am over the age of 18 and not a party to the within action. My business address is 8002 California Avenue, Fair Oaks, CA 95628.

On June 28, 2002, I served the following documents on all parties listed on the attached service list by method indicated.

JUNE 28, 2002 LETTER FROM THE LAW OFFICE OF J. WILLIAM YEATES REQUESTING ADDITIONAL TIME TO INCORPORATE NEW INFORMATION FROM FINAL EIR/EIS INTO CLOSING ARGUMENT/LEGAL BRIEF.

Executed on June 28, 2002, at Fair Oaks, California.

Keith G. Wagner
Type or print name

[original signed]
Signature

**LIST OF PARTIES TO EXCHANGE INFORMATION
IMPERIAL IRRIGATION DISTRICT/SAN DIEGO COUNTY WATER AUTHORITY
WATER TRANSFER HEARING**

SERVICE LIST

Mark J. Hattam
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Andy Fecko
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(via electronic service)

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Regional Water Quality Control Board
Colorado River Basin Region
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(via electronic service)